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MARTIN & FERRARO, LLP
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

Telephone
(330) 877-0700

Faxsimile
(330) 877-2030

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TO:

Name: Mail Stop AF
Group Art Unit 3733/Examiner James L. Swiger III

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 10/809,149
Gary Karlin Michelson
Filed: March 25, 2004
METHOD FOR USING ARCUATE DYNAMIC
LORDOTIC GUARD WITH MOVABLE
EXTENSIONS FOR CREATING AN
IMPLANTATION SPACE POSTERIORLY IN
THE LUMBAR SPINE
Attorney Docket No. 101.0093-02000
Customer No. 22882
Confirmation No.: 7390

FROM:

Name: Thomas H. Martin, Esq.

Phone No.: 330-877-2277

No. of Pages (including this): 7

Date: March 14, 2007

Confirmation Copy to Follow: NO

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Transmittal Form (in duplicate) and Reply to Final Office Action are being facsimile transmitted to the U.S. Patent and Trademark Office on March 14, 2007.



Sandra L. Blackmon

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FORM PTO-1083

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Attorney Docket No.: 101.0093-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlin Michelson

Serial No: 10/809,149

Filed: March 25, 2004

For: METHOD FOR USING ARCUATE
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MOVEABLE EXTENSIONS FOR
CREATING AN IMPLANTATION
SPACE POSTERIORLY IN THE
LUMBAR SPINE

Confirmation No.: 7390

Art Unit: 3733

Examiner: James L. Swiger III

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a reply to the Final Office Action dated February 26, 2007 in the above-identified application.

- No additional fee is required.
- Applicant hereby requests a ***-month extension of time to respond to the above office action.
- The total amount of \$*** to cover the above fees is to be charged to Deposit Account No. 50-3726.
- The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-3726. A copy of this sheet is enclosed.
- Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,
MARTIN & FERRARO, LLP

Date: March 14, 2007

By: 
Thomas H. Martin
Registration No. 34,383

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Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

FORM PTO-1083

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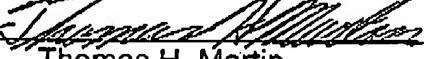
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RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3733

MAR 14 2007

PATENT

Attorney Docket No. 101.0093-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Confirmation No.: 7390
Gary K. Michelson)
Serial No.: 10/809,149) Group Art Unit: 3733
Filed: March 25, 2004) Examiner: James L. Swiger III
For: METHOD FOR USING ARCUATE)
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MOVEABLE EXTENSIONS FOR)
FOR CREATING AN IMPLANTATION)
SPACE POSTERIORLY IN THE)
LUMBAR SPINE)

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY TO FINAL OFFICE ACTION

In reply to the Final Office Action of February 26, 2007, and pursuant to 37 C.F.R. § 1.116, the following remarks are submitted:

The Examiner has rejected claims 1-2, 4-13, 15, 17-19, 21-22, 25-30, and 44 under 35 U.S.C. § 102(e) based on U.S. Patent Pub. 2003/0135220 to Cauthen ("Cauthen"). According to MPEP § 706.02, "for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly." As discussed below, Cauthen does not teach every limitation as claimed in independent claim 1. As such, Applicant respectfully traverses the Examiner's rejection of independent claim 1 based on 35 U.S.C. § 102(e).